

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SMT. JUSTICE T. RAJANI

CIVIL REVISION PETITION Nos. 1559 and 1562 of 2010

COMMON ORDER: (*Per VRS,J*)

These revisions arise out of the orders passed by the Principal District Judge, Ongole, allowing the applications of the 1st respondent for reopening of the case and for summoning of certain persons as witnesses.

2. Heard Mr. N. Ashwani Kumar, learned counsel for the petitioner. Learned counsel for the 1st respondent is absent.

3. The 1st respondent herein raised a dispute with the petitioner herein and the matter was referred to arbitration before the 2nd respondent. The 2nd respondent passed an arbitration award. The arbitration award was challenged by the 1st respondent in Arbitration O.P.No.3 of 2009 before the Principal District Court, Ongole. The scope of an enquiry under Section 34 of the Arbitration and Conciliation Act, 1996 is extremely limited and circumscribed.

4. But, during the pendency of the petition under Section 34, the 1st respondent strangely took out two interlocutory applications, one for reopening of the case and another for summoning of the employees of the petitioner to give evidence. Both these applications

were allowed by the trial Court, on the ground that the petitioner did not file any counter affidavit.

5. Despite the fact that the petitioner did not file a counter, the prayers made by the 1st respondent were incapable of being granted by the Court, dealing with a petition under Section 34 of the Act. Section 34 of the Act does not give scope for a trial, as the 1st respondent appears to have thought of. Therefore, the impugned orders are liable to be set aside.

6. Accordingly, the Civil Revision Petitions are allowed and the impugned orders are set aside. In any case, the 1st respondent may not be prejudiced, because the petitioner himself approached the Bombay High Court for setting aside the award under Section 34 and the application was allowed and the matter remanded back to the arbitrator. In such circumstances, the O.P. filed by the 1st respondent before the Principal District Judge, Ongole, itself has become infructuous, since the arbitration award has been set aside by the Bombay High Court.

Consequently, miscellaneous petitions if any pending in the revisions shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

T. RAJANI, J.

10th August, 2017
cbs



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C.R.P.Nos.1559 & 1562 of 2010
(allowed)

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% 10-08-2017

M/s. Net Worth Stock Broking Limited,
rep. by its Managing Director, Regd.Office,
Church Gate House, Veera Nariman Point Fort,
Mumbai-400 001.

.. Petitioner

Vs.

\$ Sri M. Mohan Rao and another

.. Respondents

<GIST:



>HEAD NOTE:

! Counsel for petitioner : Mr. N. Ashwani Kumar

^ Counsel for respondents : None

? CASES REFERRED : ----